

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
BEFORE THE REGISTRAR S.G. SHAH

Petition(s) for Special Leave to Appeal (Civil) No(s).12736/2009

D.A.V.COLLEGE TRUST & MANAG.SOCIETY &ORS Petitioner(s)

VERSUS

DIR.OF PUBLIC INSTURCTIONS & ORS. Respondent(s)
(With prayer for interim relief and office report)
WITH SLP(C) NO. 13760-13761 of 2010
(With prayer for interim relief)
SLP(C) NO. 23037-23048 of 2010
(With office report)

Date: 18/10/2011 This Petition was called on for hearing today.

For Petitioner(s)
Mr. Pramod Tyagi, Adv.
Mr. Shree Pal Singh,Adv.
Mr. A.Venayagam Balan, Adv.

For Respondent(s)
Mr. Jatinder Kumar Bhatia,Adv.
Mr. Sudhir Naagar ,Adv
Mr. P.V. Dinesh, Adv.

UPON hearing counsel the Court made the following
O R D E R

It is absolutely unfortunate that improper proof of service is filed on record. When the matter was called for, the learned Advocate, Mr. Pramod Tyagi, appearing on behalf of the learned Advocate-on-Record, Mr. Shree Pal Singh for the petitioner has shown the affidavit sworn by one Mr. Amrish Tyagi, who has stated in his affidavit that he is practicing Advocate in the courts and competent to disclose the proof of service by the affidavit.

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With such affidavit, the learned Advocate, Mr. Tyagi has attached four photographs of some premises stating that House No.5725 is readable in the photograph and as the address of respondent No.4 is having House No.5725, they have tried to serve the notice at such address but such house is closed.

On verification of the original record, it is found that the affidavit of an Advocate, Mr. Amrish Tyagi is already filed on record on 20.8.2011. However, surprisingly at least some facts in both the affidavits are different, inasmuch as

in the affidavit which is on record it is categorically stated in para 3 of the affidavit that "..... photograph of the door has been taken and the same will be placed on record as and when this court will direct."

In view of such statement, the affidavit which is handed over to the court by the learned Advocate Mr. Pramod Tyagi is to be taken on record. With the original affidavit, the learned Advocate has annexed few tickets of the State Transport Buses and acknowledged copy of notice at least for respondent Nos.1 and 5. There is no confirmation whether respondent Nos.4 and 7 are served or not.

So far as respondent No.4 is concerned, the affidavit, which is filed on record as well as the affidavit which is submitted today with photographs, cannot be considered as proper proof of service.
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Now, the learned counsel for the petitioner wants fresh dasti notice upon the unserved respondent. On enquiry that what happens to the notice which is already issued previously, it is stated that the same is submitted back to the Registry. However, no such notice is found on record with the affidavit referred in above. The fact remains that proof of service is not proper and not in accordance with law.

In view of the above fact, fresh dasti service cannot be issued.

If petitioner fails to take appropriate steps either to file proof of service or to select proper mode of service upon the unserved respondent on or before 8.11.2011, list before the Hon'ble Judge in Chambers for non-prosecution.

(S.G. SHAH)
REGISTRAR

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